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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Tehama)

THE PEOPLE,

Plaintiff and Respondent,

v.

GUADALUPE ANN GARCIA,

Defendant and Appellant.

C062839

(Super. Ct. No.
NCR75363)

ORDER MODIFYING OPINION
AND DENYING REHEARING
[CHANGE IN JUDGMENT]

THE COURT:

It is ordered that the opinion filed herein on April 22, 2010, be modified as follows:

On page 2, at the end of the first full paragraph, replace the last sentence "We find no constitutional violation and shall affirm the judgment" with the following:

We find no constitutional violation. However, we find merit in defendant's alternate contention that the trial court erred in imposing two assessments, and we shall order

stricken one of the two \$30 assessments imposed pursuant to Government Code section 70373.

On page 4, after the paragraph beginning with "As with the court security . . ." and before the paragraph beginning with "Pursuant to this court's . . .," insert the following separate paragraph:

However, defendant was ordered to pay two separate Government Code section 70373 assessments of \$30. One is identified in the abstract of judgment as a surcharge component of the criminal lab analysis fee (assessed pursuant to Health and Safety Code section 11372.5, subdivision (a)); the other is identified as a surcharge component of the drug program fee assessed under Health and Safety Code section 11372.7, subdivision (a).) This was error. Government Code section 70373, subdivision (a) states in pertinent part that "an assessment shall be imposed on every conviction for a criminal offense The assessment shall be imposed in the amount of thirty dollars (\$30) for each misdemeanor or felony" The assessment is not dependent on the imposition of any other fine and when, as here, a defendant is convicted of a single crime, a single \$30 assessment is authorized.

In the DISPOSITION on page 5, delete "The judgment is affirmed" and replace it with the following paragraph:

The trial court shall amend the abstract of judgment to reflect that the \$30 assessment imposed pursuant to Government Code section 70373 as a component of the drug program fee imposed under Health and Safety Code section 11372.7, subdivision (a) is stricken. In all other respects, the judgment is affirmed. The trial court shall prepare an amended abstract of judgment and forward a copy to the Department of Corrections and Rehabilitation.

This modification changes the judgment.

The petition for rehearing is denied.

HULL, Acting P. J.

BUTZ, J.

CANTIL-SAKAUYE, J.